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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1053rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 August 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1053/Add.1.

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Sudan: Additional information requested under article 9, paragraph 1, of the Convention (CERD/C/222/Add.2) (continued)

1. At the invitation of the Chairman, Mr. El-Mufti and Mr. Elkarib (Sudan) took places at the Committee table

2. Mr. EL-MUFTI (Sudan) said that the Committee had raised questions containing allegations similar to those first made by the Commission on Human Rights at its forty-seventh session, and subsequently by the Sub-Commission on Elimination of Discrimination and Protection of Minorities and the United Nations General Assembly.

3. At its forty-eighth session, the Commission on Human Rights had adopted a confidential decision to appoint an independent expert, Mr. Gáspár Bíró, to establish direct contacts with the Government and people of the Sudan and to report to the Commission on Human Rights at its forty-ninth session on the human rights situation in that country. Unfortunately, before he could submit his report at the Commission's forty-ninth session, the General Assembly had adopted resolution 47/142 of 18 December 1992 on the situation in the Sudan, which effectively pre-empted the conclusions of the independent expert's mission. The Commission on Human Rights, at its forty-ninth session in February 1993, had failed to take up the recommendations of its working group on country situations, deciding instead, in its resolution 1993/60, that the situation should be examined under the public procedure and appointing Mr. Bíró as Special Rapporteur to investigate the situation and report his findings to the General Assembly at its forty-eighth session and to the Commission on Human Rights at its fiftieth session. During Mr. Bíró's visits to the Sudan, he had received the full cooperation of the Sudanese authorities. He had been able to visit prisons to assess the treatment of prisoners and to meet individuals who had allegedly been tortured to death, thus showing that the most serious allegations brought against the Sudan had been unfounded. The response of the Government of the Sudan to Mr. Bíró's reports (A/48/601 and E/CN.4/1994/48) had been set out in full in the comments submitted to the Third Committee of the General Assembly at its forty-eighth session (A/C.3/48/17) and to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/122).

4. Turning to the specific issues raised concerning the additional information supplied by the Sudan (CERD/C/222/Add.2) he said that the stages leading to constitutional legitimacy were described in paragraph 4 of the document. Once the Revolutionary Command Council for the National Salvation Revolution had been dissolved, federal legislative powers had been transferred to the Transitional National Assembly, thus opening the way for constitutional legitimacy. As its name implied, the Transitional National Assembly was a temporary institution which would be replaced by an elected legislative assembly. The elections were provisionally scheduled for 1995. Constitutional legitimacy would be consolidated when the new, elected body was in place.

5. With regard to the question on the powers of security officers and their curtailment, preventive detention had initially been governed by legislation on national security and had not been subject to judicial supervision. Subsequently, the powers provided for under that legislation had been placed under the supervision of the judiciary and the Ministry of Justice. However, as the Ministry of Justice was an executive power, national security legislation had been amended once again and, at present, responsibility for supervising the powers exercised under that legislation resided exclusively with the judiciary. Abuses by security officers were considered an offence and were punishable under sections 89 and 90 of the Penal Code. Information relating to the trials of security and police officers who had violated human rights in the exercise of their duties, previously made available to the Special Rapporteur on the situation of human rights in the Sudan, could be supplied to the Committee. The trials in question had led to the imposition of the death penalty in some cases.

6. With regard to the question on the night curfew and the state of emergency, the curfew, which had been imposed exclusively in Khartoum State, had been lifted. The state of emergency which had been in force since the present Government had taken power, was still in place mainly because of the armed conflict in the southern part of the Sudan. It was essentially a dissuasive measure.

7. Referring to questions on the independence of the judiciary, he said that the Government of the Sudan had paid close attention to the issue, as could be seen from article 7 of the first constitutional decree to be promulgated, which ensured that the judiciary had the same situation and status as before the Government had taken power. Judges and magistrates were appointed in accordance with the 1986 Act concerning the judiciary.

8. In reply to a question relating to paragraph 14 (i) of the document, no violation of the right to life was permissible. The only exception was where such an act was sanctioned by the law, for instance, where a death sentence was pronounced by a court.

9. Reference had been made to the means for ensuring an equitable distribution of wealth within the State. The Sudan was divided into 26 States, each of which had its own financial resources derived from internal taxes collected by the State, and from funds provided from federal sources. Article 34 of Constitutional Decree No. 4 gave details of those various sources of income. The relative powers of the States and the central government were set out in articles 8, 9 and 10 of Constitutional Decree No. 4, from which it could be seen that the Sudan operated on a federal basis, with some powers being accorded to the central authorities and some to the States, and not on a decentralized basis, as suggested by a member of the Committee. Southern Sudan was made up of 10 States, each of which had a governor of southern origin supported by 5 ministers of southern origin and 1 minister from the north. An analogous structure applied in the 16 northern States, 1 minister in each of those States being of southern origin. The internal frontiers in the Sudan had originally been fixed by the former colonial Power; when it had left in 1956, the country had been divided into nine provinces, six in the north and three in the south. The outer borders of the southern areas had been left untouched by subsequent authorities, the area

formerly allotted to the three provinces being subdivided into the present ten States. The central Government had assigned the task of drawing the boundaries of the 10 States to a committee, which had included prominent persons from each province. The committee had taken six months to carry out its task, engaging in very wide consultation with the local inhabitants, who had welcomed the new arrangements. The reports of the committee's work were contained in official documents, which were open for consultation should any future inquiry into the procedure be required.

10. The question of compatibility between Islamic law and the international instruments ratified by the Sudan had been raised in connection with paragraph 26 of the document. There was no essential contradiction between the two; he could not share the view of the Special Rapporteur, who appeared to have no clear understanding of Islamic law, that that law ran counter to international instruments.

11. The presence of Sudanese refugees in neighbouring countries had been mentioned. However, the vast majority of those fleeing the fighting in the south, some 2 million people, according to Mrs. Sadiq Ali's report, had in fact sought refuge in the north of the country, proof that there was no religious discrimination there. Those, numbering not more than 250,000, who had fled to neighbouring countries were either members of the rebel forces who had refused to accept the general amnesty or persons situated beyond the rebel lines whose only route of escape lay outside the country.

12. A question had been asked about the use of force by the police to disperse student demonstrations. The demonstrations referred to had been illegal assemblies and had been dispersed in a normal fashion without any violation of human rights. Such action was not confined to the Sudan. Unruly demonstrations occurred in countries all over the world; it was evident from television broadcasts that, in some Western countries, force was used to disperse demonstrations and persons, women even, were dragged along the ground. That had not happened in the Sudan.

13. Mrs. Sadiq Ali had referred to reports of the torture and inhumane treatment meted out to Brigadier Mohammed Ahmad Al-Rayah, a subject that had been raised with the Sudanese delegation in many United Nations forums. The Special Rapporteur of the Commission on Human Rights had met Brigadier Al-Rayah in Kober prison in 1993 and had been accorded a private interview with him, during which he did not appear to have maintained his accusations. A magistrate had also been appointed to look into those allegations but they had not been upheld by the complainant.

14. In the case of Peter El-Birsh, the priest convicted of abusing a 15-year-old girl, the Special Rapporteur had, during his visit to the Sudan, met the girl concerned and her family. The case had been dealt with by the appropriate legal procedure and was now closed.

15. In reply to Mr. Wolfrum's question, under the National Security Act, as now amended, the maximum period a person could initially be held in preventive detention was 72 hours. Preventive detention could be prolonged beyond that

period subject to judicial approval. Should a judge order a detainee to be released, he could not be detained again until at least one month had elapsed. There were many safeguards against improper detention.

16. Mrs. Sadiq Ali had wished to know what had happened to the detainees who had been shown on public television. During the visit of the Special Rapporteur to the Sudan in December 1993 he had been informed that the persons concerned would be tried in public during that month and had been given a written invitation to attend the trial, which he had declined. The trial, as announced, had taken place in public. The court had acquitted and released many of the accused, the maximum sentence passed on those found guilty having been five years' imprisonment. The Government had not been satisfied with the outcome of the trial and had lodged an appeal against the verdict, which was still to be heard.

17. With reference to the situation in the Nuba Mountains, he quoted from what the Committee might consider a neutral source of information, a report by the Foreign Minister of a western country following a visit to refugee camps and villages in the region in 1993. The situation was reported to be much improved in terms of water, food and medical supplies, the mortality rate, support by Sudanese aid organizations, both Islamic and Christian, and security. People were said to be gradually returning to the deserted villages. Talks with representatives of two Christian churches had yielded the information that the serious problems experienced in the past, such as restrictions on freedom of movement and random arrests of priests, had ceased, and that Christians could now profess their faith unhindered. That comment responded to the concern expressed in the Committee about Islamization.

18. He replied in the affirmative to the question whether there were local assemblies in the Sudan. Indeed, within the federal system, local power was vested in such local authorities. The federal structure comprised neighbourhood assemblies at the grass-roots level, whose members were freely and directly elected, then municipal, provincial and, finally, State authorities.

19. On the subject of religious freedom, Mrs. Sadiq Ali had referred to threats to Muslim converts to Christianity. In fact, Sudanese citizens were entirely free to change their religion; were that not the case, such persons would have been brought to trial rather than threatened. Apostasy, as he had said previously, was an altogether separate issue.

20. In reply to the question about conformity with article 1 of the Convention, he wished to make it clear that the Convention was part of Sudanese legislation and was directly applied. In addition, article 64 of the Penal Code provided for imprisonment and fines for offences involving racial discrimination, and article 9 of Constitutional Decree No. 7 prohibited racial discrimination.

21. On the subject of the Commission of Inquiry referred to in paragraph 36 of document CERD/C/222/Add.2, he pointed out that the reasons why the Commission's findings had not yet been made public had already been discussed with the Special Rapporteur of the Commission on Human Rights on the human rights situation in the Sudan. The process had been repeatedly delayed

because the Commission on Human Rights was continuing to submit further lists of disappeared persons. It was hoped that agreement would be reached on a deadline for the submission of such lists so that the Commission of Inquiry could complete its work. In that case, there was every reason to expect that the report would be published in the near future.

22. Replying to a question about the legal status of the document on human rights issued by the Transitional National Assembly, he explained that Constitutional Decree No. 7, which embodied all human rights and freedoms, had been promulgated by the National Assembly, the legislative body, for the very purpose of conferring legal status on the substance of that document.

23. The 1993 census figures would be conveyed to the Committee as soon as they were published.

24. Referring to sources of information used by the Committee in its assessment of the human rights situation in the Sudan, he said that the Committee, as a committee of experts, would have been better advised to have compared the situation in the Sudan with that prevailing in other countries on the basis of information supplied by other United Nations bodies, which represented the views of all member States, than to have relied on sources such as the United States Department of State or Amnesty International. It could be seen from a report by the United Nations Working Group on Enforced or Involuntary Disappearances (E/CN.4/1994/26), for instance, that there were only four cases of such violations reported in the Sudan, as against thousands in some other countries. In that context, it was regrettable that the Sudan had been singled out for human rights violations; the Committee could gain a better understanding of the situation by comparing the data.

25. In conclusion, he thanked the Committee members for their questions and comments and assured them of his willingness to provide any further information required.

26. Mrs. SADIQ ALI thanked the representative of the Sudan for his frank replies to Committee members' questions and for enlightening them on the current situation in the Sudan. The report before the Committee had been somewhat vague and confusing and she hoped that the Government would provide more factual information when it next reported. She wished the Sudan every success in the reconciliation process now under way.

27. Mr. WOLFRUM, associating himself with Mrs. Sadiq Ali's comments, added that he was much encouraged by the information provided, especially on power-sharing between the various levels of government. More information would be welcomed on the economic and social situation. He appreciated the evident willingness of the Sudanese authorities to pursue a dialogue with the Committee and, as stated in paragraph 37 of the document, to utilize technical assistance from the advisory services programme of the Centre for Human Rights. He was sure that other Committee members would join with him in offering full cooperation in order to assist in the reconciliation process. He agreed that more factual information was needed on the situation in Sudan and thought it would be appropriate, given the interim nature of the document before the Committee, to resume the discussion at the Committee's spring session in 1995.

28. Mr. CHIGOVERA, while expressing appreciation for the frank replies to the questions asked, said that he remained to be fully enlightened on the reasons for the conflict in Sudan. As stated in paragraph 16 of the document before the Committee, Sudan was a multiracial, multireligious and multicultural society, and it was partly on those grounds that he had assumed - perhaps wrongly - that the conflict inevitably had an ethnic or racial dimension. His questions had been directed towards gaining a clearer understanding of the situation so that the Committee could make a full assessment of the nature of the issues confronting the State party and ascertain Sudan's compliance with the Convention with all the facts to hand. He hoped that such information could be provided, if need be in the next report.

29. Mr. DIACONU said that the Sudanese representative's acknowledgement that there were differences of attitude and opinion between the two main ethnic groups in the country was an encouraging sign. The Sudanese authorities had begun to establish the legal structures required to solve those ethnic problems and give people in all regions more confidence in the Government and greater autonomy. Nevertheless, there were still considerable problems: it was essential to end the conflict between the Government and the southern rebels, encourage the large number of refugees to return to their homes and guarantee their enjoyment of human rights. Even more difficult, it was essential to restore trust between the different ethnic communities so that they could live together in peace. The United Nations could provide valuable technical assistance with a programme of confidence-building measures and training for judges, police officers, teachers and the general public in respect for human rights and the avoidance of discrimination. He suggested that the Government of Sudan should provide additional information on developments in the country at the Committee's forty-sixth session in March 1995, or at the next session thereafter.

30. Mr. ABOUL-NASR asked for more details of the negotiations between the Sudanese Government and the rebels which, he understood, had finished at the end of July 1994 and were due to resume the following month. It was commendable that the Government had agreed to talk to the rebels at all, since many governments in a similar situation refused to do so. He hoped that more information would be included in the Sudan's next report.

31. The CHAIRMAN, speaking in his personal capacity, said that the Government's negotiations with the rebels definitely came within the Committee's mandate, since the conflict was partly ethnic in origin. He, too, hoped that there would be more information in the next report.

32. Mr. de GOUTTES said that, while the Sudan was obviously making a move in the right direction, its entire society and legal system would have to be rebuilt. He accordingly agreed that it should be asked to report on developments in the situation at the Committee's forty-sixth session in March 1995.

33. Mr. FERRERO COSTA thanked the Sudanese delegation for its positive and constructive dialogue with the Committee. However, the Committee still had areas of concern, and more information was needed. He therefore agreed that the Sudan should be asked to appear before the Committee at its next session.

34. Mr. SHERIFIS asked whether the Sudanese representative could give the Committee a brief account at the present meeting of the status of negotiations with the rebels.

35. Mr. EL-MUFTI (Sudan) said that the Sudanese Government and the rebels had met for negotiations in Nairobi, Kenya, on three occasions in 1994. They had begun by discussing an agreement on the provision of aid to the victims of the conflict. After much negotiation, safe routes had been established for the transport of emergency relief by air, road and the river Nile. It was hoped that more such corridors would be opened up in the future.

36. Representatives of the Sudanese Government had returned to Nairobi for further negotiations, but the rebels had refused to participate and had confiscated a number of vessels with their cargo of emergency aid. The United Nations and other international agencies were currently encouraging the rebels to let the relief supplies through.

37. Subsequent negotiations, involving the participation of the United States of America and the Inter-Governmental Authority on Drought and Development (IGADD), a regional organization of which Sudan was a member, had concentrated on achieving a cease-fire. President Daniel arap Moi of Kenya had proposed that both sides should declare an immediate and unconditional cease-fire. The Sudanese Government would have preferred to achieve a complete solution to the conflict first, but it had agreed to an immediate cease-fire to show its goodwill. One rebel faction had also agreed to call a cease-fire, but another had refused. Eventually, all the parties concerned had agreed to put down their arms. The negotiations, which had finished two weeks before, had highlighted two main areas of disagreement: the question of self-determination and the relationship between religion and the State. In fact, as far as the Sudanese Government was concerned, both issues were governed by existing agreement so self-determination should not be discussed until the country was completely united and all countries had the right to decide for themselves whether or not to adopt the law of the Koran. The negotiations were due to resume in a month's time.

38. The CHAIRMAN thanked the representative of the Sudan for his frank and extensive answers to the Committee's questions. His remarks had shown the enormous problems facing the Sudanese Government. The Committee particularly appreciated the additional information provided by the Government at the Committee's request, and he was sure that the Centre for Human Rights and the Committee itself would do their best to provide technical assistance, which, as indicated in paragraph 37 of the document, the Sudanese Government was willing to accept.

The public part of the meeting rose at 12.50 p.m.